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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION EIGHT

In re M.R., A Person Coming Under the
Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

G.S.,

Defendant and Appellant.

B205841

(Los Angeles County
Super. Ct. No. CK 69731)

Appeal from the orders of the Superior Court of Los Angeles County.
Jacqueline H. Lewis, Juvenile Referee. Affirmed.

Diana W. Prince, under appointment by the Court of Appeal, for Defendant and
Appellant.

Raymond G. Fortner, Jr., County Counsel, James M. Owens and Timothy M.
O’Crowley, Deputy County Counsel, for Plaintiff and Respondent.

G.S. appeals from the dependency court orders taking jurisdiction over her son, M.R., and placing the child with a relative. (Welf. & Inst. Code, §§ 300, subd. (b), 361.) Because there was sufficient evidence to justify those orders, we affirm.

FACTS AND PROCEDURAL HISTORY¹

The Los Angeles County Department of Children and Family Services (DCFS or the Department) filed a petition in August 2007 alleging that 11-month-old M.R. was at risk of physical and emotional harm because his mother, G.S., was in jail on forgery charges. An amended petition was filed the next month adding an allegation that G.S. suffered from an unknown or undiagnosed mental illness that impaired her ability to provide M.R. with regular care and supervision and that also placed M.R. at risk of physical or emotional harm.²

The court took evidence about G.S.’s behavior and M.R.’s special needs through a combination of live testimony and various written reports by DCFS case workers. Although M.R. was in good health, he was exposed to drugs while G.S. was pregnant. A neurological examination showed that M.R. had “[p]rominent stereotypic repetitive behaviors, hypotonia, mild motor delay, abnormal leg position for abnormal gait, suspicious hearing impairment, features of autism spectrum disorder, serious risk of anxiety disorders[,] especially obsessions, compulsions, quirky personality and perhaps great brilliance.” The neurologist reported that M.R. was “limp when not screaming,”

¹ In accord with the usual rules on appeal, we state the facts in the manner most favorable to the dependency court’s orders. (*In re Tania S.* (1992) 5 Cal.App.4th 728, 733.) As with most such cases, the procedural and factual history is both long and detailed. We have therefore narrowly tailored that history to fit the issues raised on appeal.

² The amended petition also named M.R.’s father, E.R., based on allegations that he was in jail and was therefore unable to care for the boy, that he had been convicted of using cocaine, molesting children, and spousal or co-habitant abuse, and therefore placed the boy at risk of harm. Father appeared and contested the Department’s allegations, and the court sustained the petition as to him. Father is not a party to this appeal, however. Accordingly, our focus is on the mother.

“does strange things with his body, twists his arms behind his body, arches his back . . . demonstrates frequent headbanging” and was “language delayed.”

Another report said M.R. “may have experienced neglect of his developmental needs while being homeless. His greatest need is for permanence and stability in his attachment and care-giving relationships and he needs to reside in a safe and stable home with loving, patient and confident care-givers. Consider a concurrent placement if there is the possibility he may not return to his family.” The report added that M.R. had developed a very close bond with his foster parents. A separate report also concluded that M.R. needed permanent and stable relationships with his caregivers.

As for G.S., DCFS first investigated in response to a report that she was staying with M.R. at the Midnight Mission and had severe mental or emotional problems. According to the reporting party, G.S. was confused and laughed for no apparent reason. G.S. had been referred to the county’s mental health department and other social service organizations but did not follow through with getting services. G.S. was reportedly in and out of the shelter under different names. M.R.’s only clothes were a pair of overalls and G.S. had diapers for the boy only when the shelter provided them. When the department caseworker met with G.S. at the shelter, G.S. showed her M.R.’s immunization records for 2006 and 2007. G.S. had a backpack filled with bottles, clothes, and some clean diapers. The police arrived and arrested G.S. when they discovered she had an outstanding arrest warrant for felony forgery.

A September 2007 DCFS report included interviews with social service providers who knew G.S. and M.R. from the Midnight Mission. Margaret Bell, a Mission case manager, said G.S. had been in the shelter for 40 days under several different names. G.S. would leave early each morning and return late at night. Bell thought G.S. acted like she was on drugs or hiding something. “It seemed like she was high. She would sit in my office and rub and rub the desk and then for no reason she would start laughing – really start laughing. She is a highly intelligent person, but she leaves (emotionally) us for a moment and then she comes back. When she would come (to the Mission) at night she had the baby with her. Before [DCFS] took the baby, she was recycling the diapers.

She was reusing the diapers because she did not have any money. We, the Mission, would give her baby clothes and diapers.” Bell also said G.S. was “particular” about M.R.’s cleanliness and would wipe down their living and sleeping area. Bell believed G.S. was “more or less paranoid. She did not want to give out any information.”

Angelica Gallegos, a social services eligibility worker at the Mission, told G.S. that unless the father’s name was removed from the case, she could not be referred for services. He could be added back at a later time, Gallegos told her. Gallegos told G.S. that because of the baby, Gallegos wanted to find housing for G.S. away from the Mission, and asked G.S. what her priority was. G.S. responded by calling Gallegos “a policy slut.” Gallegos confirmed that G.S. had no clothes for M.R.

Kevin Martin, a program manager for a homeless assistance group, said he tried to have G.S. produce the information and take the steps needed to get out of the Mission and into a hotel. He believed “there were mental health problems. She seemed to want the emergency shelter. She did not need the shelter. She was able to get more and would not comply. She was not compliant with the social workers at all. She could have made a good decision for her baby and she would not do it.”

The DCFS social worker said G.S. refused to provide information about her personal history and opined that G.S. had a mental illness that manifested as paranoia and suspicion of others. While G.S. clearly loved M.R. very much, her mental health issues sometimes kept her from providing for M.R.’s needs and supervision. Another report included a letter from a county mental health center stating that a licensed clinical social worker had seen G.S. in July 2007 and believed G.S. did not show signs of a severe and persistent mental illness.

G.S. testified that she never noticed M.R.’s motor skills problems. Instead, she claimed M.R. had been in perfect health and received regular medical care while in her custody. She was now out of jail after pleading guilty to fraud. She admitted to using several different names and to calling Gallegos a “policy slut.” She was looking for work, was attending a parenting class and was taking unspecified counseling sessions.

Although DCFS claimed G.S. had no medical records for M.R., G.S. claimed she had provided them but DCFS lost them.

G.S. gave conflicting testimony when asked whether she had ever undergone any psychological evaluations apart from the July 2007 assessment that found no signs of serious mental illness. G.S. replied, “I been given – if the court so orders a psychiatric evaluation, it’s – numerous psychological evaluations. [¶] The psychiatric is the – has fallen through. In case the person is determined to need meds. So if you make sure – you know, it’s a psychological evaluation. There’s no such thing as a psychiatric evaluation.” Asked to clarify, G.S. claimed she had never been given a psychological evaluation.³

After considering the evidence and hearing argument by the parties, the court dismissed the original allegation based on G.S.’s arrest and jail custody and sustained the allegation of the amended petition concerning the risk of harm posed by G.S.’s mental health issues. The court believed the existence of such issues was clear and said its determination turned on whether there was a nexus between that behavior and a risk of harm to M.R. The court found such a nexus was “very apparent” because G.S. “cannot cooperate with the providers in getting the services she needs for herself or for M.R. She was unwilling to give even her own name, never mind [trying] to track down . . . the father. She lied numerous times about where he was and what he was doing instead of indicating he was incarcerated. There were – as [G.S.’s lawyer] pointed out, they were trying to assist her in getting housing. She was unwilling to assist or cooperate in order to get housing for her and M.R.” The court found that G.S.’s current circumstances were

³ This testimony strikes us as somewhat rambling, non-responsive, and incoherent, a problem that cropped up elsewhere during G.S.’s testimony. For instance, asked about the termination of a meeting between G.S. and Mission case manager Margaret Bell, G.S. replied: “Well, I had interjected at one point as the escalation occurred. And I said to the gentleman, ‘Sir, you can got to security. It’s right around the corner and there are phones there.’ So I did stop the – or attempt to stop what seemed to be a forthcoming, at least verbal incensed argument. And so – and I also did that because it seemed like he was in great need and simply asking for directive.”

all rooted in her mental health issues and, based on these findings, assumed jurisdiction of M.R. The court then found by clear and convincing evidence that G.S.'s mental health issues posed a sufficient risk of physical and emotional harm to M.R. and entered a dispositional order removing him from G.S.'s custody. The court also ordered reunification services and monitored visitation. On appeal, G.S. contends there is insufficient evidence to support these orders.

DISCUSSION

G.S. contends there is insufficient evidence to support the dependency court's jurisdictional order that she posed a substantial risk of serious physical or mental harm to M.R. The standard of proof at the jurisdictional stage of a dependency proceeding is a preponderance of the evidence, and we will affirm the court's findings if they are supported by substantial evidence. (*In re P.A.* (2006) 144 Cal.App.4th 1339, 1344.) Using the same arguments, G.S. also contends that even if there was sufficient evidence to assume jurisdiction, there was not sufficient evidence to meet the higher burden of proof of a substantial risk of harm required to enter a dispositional order that took custody of M.R. away from her. (*In re Isayah C.* (2004) 118 Cal.App.4th 684, 694-695 [we review the record in the light most favorable to the dispositional order and will affirm if it contains sufficient evidence from which a reasonable trier of fact could make the necessary findings by clear and convincing evidence].) As set forth below, we conclude there was sufficient evidence to support the dispositional order, thereby automatically validating the jurisdictional order as well.

G.S.'s two-pronged attack argues first, that there was no evidence of mental illness, basing this on the July 2007 social worker's letter stating that she did not appear to have a severe and persistent mental illness. The second prong contends that whatever mental health issues she might have did not pose the required risk, as evidenced by the regular medical care she provided M.R., the absence of evidence showing M.R. was ever placed in danger, her release from jail, her attendance of parenting and counseling classes, her search for a job, and her newly stated desire to obtain better housing.

According to mother, her real problems are financial, and poverty is not a sufficient reason to assume jurisdiction.

The dependency court may assume jurisdiction of a child whose parents are unable or unwilling to provide proper medical care. (*In re Petra B.* (1989) 216 Cal.App.3d 1163, 1169-1170.) G.S.'s appellate briefs gloss over M.R.'s medical problems and her apparent inability or unwillingness to deal with them. As set forth above, M.R. had a host of physical and emotional problems, including motor and language skills delays, hearing loss, probable autism, and others, that put him at "serious risk" of several mental health problems. These manifested themselves as frequent headbanging, strange body motions, and going limp when not screaming. Yet according to G.S., she never noticed M.R.'s motor skills deficits and claimed the boy had been in perfect health.

The dependency court could view G.S.'s testimony in two ways, both of which support its orders: First, that she was lying about her knowledge of M.R.'s problems and was therefore unwilling to address his special needs; or second, that she was telling the truth as she saw it, and was therefore so unable to comprehend M.R.'s needs that she was unable to do so. Both are amplified by evidence that G.S. consistently refused to cooperate with those who wanted to help her and M.R., and in fact appeared to prefer living in a shelter rather than take steps to obtain the permanent, stable living arrangement that one evaluator said M.R. needed. As that evaluator also noted, M.R.'s developmental needs may have been neglected while he was homeless.

G.S.'s reliance on the July 2007 social worker's statement is overstated. In her letter, the social worker states only that G.S. came to the mental health center on the instructions of some unnamed agency but did not request mental health services. The social worker said G.S. did "not present with criteria which would be indicative of having a severe and persistent mental illness. After meeting with [G.S.], it was concluded that it would not be appropriate for her to receive services with our clinic." It does not state whether G.S. had a mental condition that prevented her from making sure M.R. received the care he needed, and there is no evidence that the issue was ever raised with or addressed by that social worker. Accordingly, the dependency court was free to reject or

discount the social worker's opinion. In contrast, the court had the opinion of a DCFS certified social worker who conducted a social study and family assessment of G.S. According to that social worker's report, G.S. had an undiagnosed mental health condition that manifested as paranoia and that appeared at times to prevent her from attending to M.R.'s needs. In addition, the court was free to evaluate G.S.'s conduct for itself and determine for jurisdictional purposes that she was mentally ill and posed a risk of harm to M.R. (*Laurie S. v. Superior Court* (1994) 26 Cal.App.4th 195, 202.)

On this record, we conclude substantial evidence supports the trial court's finding by the clear and convincing that G.S. had mental health problems that made her unable or unwilling to attend to M.R.'s many special needs, therefore posing a substantial risk of harm to the boy's physical and emotional health.

DISPOSITION

The dependency court's jurisdictional and dispositional orders are affirmed.

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RUBIN, J.

WE CONCUR:

COOPER, P. J.

BIGELOW, J.